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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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RESTON, VA 20191

EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT	PAPER NUMBER
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3742

NOTIFICATION DATE	DELIVERY MODE
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06/26/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
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Office Action Summary	Application No. 10/529,387	Applicant(s) UMIT ET AL.	
	Examiner Joseph M. Pelham	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 10, 12 and 17-29 is/are rejected.
- 7) ☒ Claim(s) 5, 7-9, 11 and 13-15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/28/05, 12/22/05, 5/2/08</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

Claims 16, 17, 24, and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 16 and 17, “a refrigerated counter” implies a working surface which is refrigerated, where the disclosure mentions only a “refrigeration counter,” referring evidently to a refrigerator with a usable counter top.

In claim 17, “the heat exchanger” lacks antecedent basis in the claims from which it depends.

In claim 24, line 1, “one” should be deleted.

In claim 26, line 2, “substantially parallel to the central body” is indefinite because the structure of the “central body” has not been defined in such a way as to establish a geometrical orientation to make this relation meaningful.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 4810856.

Referring to Figs. 1 & 2, US'856 discloses the claimed device substantially as recited, including a motorized, hollow spit 5, through which, when water is not placed in reservoir 30, air can pass, and which will to some extent have a cooling effect, and when the reservoir is not heated it will tend to absorb the heat of the air that passes into it, acting as a “heat exchanger” (claim 4). The spit has “radially oriented, outlet openings 25 through which air can pass, and it will pass into the natural “channels” in the “foodstuffs” 24.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 4663517.

Referring to Figs. 1-4 & 7, and col. 3, lines 49-68, US'517 discloses a rotating spit 38, a heating element 28 mounted at a “lower end” to an “upper branch” 68 of a U-shaped holder 32 provided beneath the “foodstuffs.”

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Claims 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 4190100.

Referring to Fig. 1, US'100 discloses a "central body" 24 with a delivery 26 and removal 28 channels for a coolant, and a heat exchanger 7, as claimed.

The examiner notes that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

The "central body" of US'100 is clearly capable of supporting foodstuffs.

Claims 19-27 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 5025639.

Referring to Fig. 2 especially, and col. 2, lines 5-18, US'639 discloses a "central body" 1, 2 "that supports foodstuffs arranged around the central body" (on the surface 2), with coolant delivery, removal channels 13, and a heat exchanger. A cold drink with a straw is a "cooling element with a channel.. through which a cooled medium flows." When it is placed on an edge region of surface 2, it is "coupled to the central body in a removable manner... at a radial spacing from the central body," and its axis of symmetry is, moreover, "substantially parallel to the central body," exactly as claimed

Claims 19-22 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 1124851. Referring to the Figure, US'851 discloses a central member 12 with radially directed openings through which a cooled medium passes "into channels formed in the foodstuffs," i.e., into the capillaries and cavities of the meat item for which it is intended.

Claims 19, 24, 28, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat. 6692783.

Referring to Fig. 1, US'783 discloses a "central body" 10 for placement "centrally" in a piece of meat, holes 20 in the outer wall which in the center region are closed by cover 18, and which also act as "delivery" and "removal" channels if fluid containing substance water were put in the device, or when it is washed, Noting again that these limitations are merely intended uses.

Claim Rejections - 35 USC § 103

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over US'856.

The claim differs from US'856 only in calling for a refrigeration counter beneath the oven. However, such refrigerators have long been available, and placement of a portable oven on the counter surface routine, commended entirely by the space usage parameters of a kitchen.

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Allowable Subject Matter

Claims 5, 7-9, 11, and 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph M. Pelham/
Primary Examiner, Art Unit 3742
6/22/08